



STATE MINING AND GEOLOGY BOARD

DEPARTMENT OF CONSERVATION

801 K Street • Suite 2015 • Sacramento, California 95814

www.conservation.ca.gov/smgb

smgb@conservation.ca.gov

Publication Date: September 9, 2010

CONFORMED MINUTES

THE STATE MINING AND GEOLOGY BOARD

Conducted a Regular Business Meeting on:

Thursday, July 8, 2010

9:00 A. M.

Assembly Hearing Room #444

State Capitol

Sacramento, California 95814

Draft

AGENDA

For questions regarding this Agenda, please contact the SMGB office by telephone at (916) 322-1082, or by facsimile at (916) 445-0738. This Notice and associated staff reports can be accessed electronically at the SMGB's Internet web site at: <http://www.consrv.ca.gov/smgb/> (note: Agenda reports should be available electronically approximately one week prior to the scheduled meeting/hearing date).

The SMGB requires that all lengthy comments be submitted in writing in advance of the meeting date where this matter is to be decided. To ensure that the SMGB has the opportunity to fully preview written material, comments should be received in the SMGB office located at 801 K Street, Sacramento, CA, 95814, no later than 5:00 P.M., 15 calendar days prior to the scheduled meeting date, and must identify the Agenda Item to which it relates. For written materials in excess of two pages, or that contains large maps, photos, foldouts, or other documents requiring special handling, please submit 15 copies. The SMGB will not reproduce these types of documents. Comments on Agenda Items will be accepted by electronic mail, and are subject to the same conditions set forth for other written submissions.

New submittals received after 15 calendar days prior to the scheduled meeting date will be marked as late, and the SMGB will decide whether new submittals will be considered or not during the public hearing. Late submittals, received by the SMGB at least 48 hours prior to the scheduled meeting, will be included in a late document submittal listing. Late submittals, received after 48 hours prior to the scheduled meeting, will not be included on the late document submittal list. The SMGB would

State Mining and Geology Board /DRAFT CONFORMED MINUTES

July 8, 2010

Page 2

accept a two-page written summary of testimony, or final comments based on, and limited to, review of the SMGB's packet and/or Executive Officer's report, at the time of the public hearing. Such two-page summaries would be included as part of the administrative record before the SMGB. This policy does not apply to quasijudicial proceedings (i.e., appeals, petitions, etc.) where administrative procedures for the submittal of documents are set forth in statute and regulation.

Individuals are responsible for presenting their own projects at the meeting.

[NOTE: Times are approximate. The chairman may alter the hearing start time or agenda item order during the meeting.]

I. Call to Order (Garner)

II. Pledge of Allegiance

III. Roll Call and Declaration of a Quorum

The meeting was called to order at 9:00 A. M. by Chairman Pro Tem Baca, with Members Garner, Lane and Wyatt absent, and a quorum was declared.

IV. Director's Report (Luther, Department of Conservation) [Information]

Deputy Director Derek Chernow reported on the following:

- The State budget was due to be passed and signed by June 15. It was not, thus, we began the fiscal year July 1 without a budget. The Legislature is now on adjournment for summer recess and scheduled to return August 2.
- CGS maps are prominently featured on the wall by the Governor's office, in celebration of CGS' 150th anniversary.
- The quarterly ARRA reporting is by due today from all state departments. The Department of Conservation has three stimulus-funded projects. Two abandoned mines projects are in OMR and one Long Valley caldera mapping project is in CGS, which has been completed.
- At the federal level, US S.3521 (Rare Earths Supply Technology and Resources Transformation Act of 2010) was introduced by Senator Murkowski (AK) on June 21, 2010. This bill would establish within the Department of the Interior (DOI) a task force to be known as the 'Rare Earth Policy Task Force' to monitor and assist Federal agencies in expediting the review and approval of permits or other actions to accelerate the completion of projects that will increase investment in, exploration for, and development of domestic rare earths. DOC will work with the Executive Officer on providing an analysis of this bill for the Governor's office, if requested.



- Office of Mine Reclamation Report (O'Bryant) [Information]

Dennis O'Bryant, Assistant Director, Office of Mine Reclamation (OMR), reported on the following activities:

- A search warrant was pursued for access to a surface mine site located in Sacramento County and site visit made by OMR staff albeit with restrictions. Another search warrant is being pursued for another site visit.
- O'Bryant introduced Steve Jenkins, Manager of the Abandoned Mines Land Unit, who has previously served the State Lands Commission, and worked as a consultant.

- State Geologist's Report (Parrish) [Information]

Chuck Real, of behalf of State Geologist and Director of the California Geological Survey, Dr. John Parrish, reported on the following activities:

- State Geologist Dr. John Parrish will be participating in a meeting of the Western States Seismic Policy Council being held in Broomfield, Colorado. Dr. Parrish serves as Chairman.
- A review of the current efforts to remove serpentine as the state rock, and possibly replace it with another was provided. The current bill, AB 624, being proposed by California State Senator Gloria Romero does not propose a replacement. Other considerations include mariposite, Lassen dacite, gem pegmatite, among others.
- A summary of the recent magnitude 5.4 earthquake which occurred near Borrego Springs, 30 miles south of Palm Springs, was provided.

V. Chairman's Report (Garner) [Information]

Recognition of distinguished service to Ralph Loyd, geologist with the California Geological Survey, was presented. Chairman Pro Tem Baca noted that Ralph Loyd has performed his duties and responsibilities as a Senior Engineering Geologist with the California Geological Survey's (CGS) Seismic Hazards Zonation Program and served as Chair of the California Post-Earthquake Information Clearinghouse with exceptional dedication and skill. Early in his 34-year career with CGS, he worked in Headquarters and served as Technical Editor of California Geology Magazine, contributing articles and editing numerous others from a multitude of authors on mineral resources and geologic hazards. Loyd played a key role in expanding the Minerals Program in CGS by contributing to the first mineral assessment under the Surface Mining and Reclamation Act of 1975, establishing standards and procedures for mineral land classification. For fifteen years, he continued to publish numerous mineral land classification studies throughout California and established a close working relationship with numerous federal, state, local, and private mining companies and agencies including the United States Bureau of Mines, the SMGB, and the American Institute of Mining Engineers. Loyd, over the past sixteen years, applied his experience in mineral resource evaluation and zoning to help establish standards and procedures for delineation and dissemination of Seismic Hazard Zones under the Seismic Hazards Mapping Act of 1990, helped develop Mapping Criteria, and managed liquefaction zoning and outreach to lead agencies while completing numerous maps and reports. The SMGB extended its most enthusiastic and heartfelt thanks for Loyd's unswerving dedication to the People of the State of California, and wishes him all the best for a prosperous and productive future.



VI. Executive Officer's Report (Testa) [Information]

Executive Officer Stephen Testa summarized the following recent and upcoming activities of the SMGB:

- The review of the County of Sierra's SMARA program was deferred to allow for review and consideration of additional information recently provided by the County.
- Designation hearings to receive public comment on proposed sectors to be considered for designation, and termination of designation, by the SMGB are being scheduled for July 29 and 30, 2010, and will be held in Bakersfield and Riverside, respectively.
- A Designation Appeal was recently received from Vulcan Materials Company reflecting a denial of a conditional use permit to mine on land designated by the SMGB by the City of Azusa. The City of Azusa has reconsidered and granted the permit, thus, the appeal has been rescinded.
- The Executive Officer continues to work on several designation rulemakings, the Alquist-Priolo Technical Advisory Committee report, as time permits, and several Information Reports pertaining to SMARA Lead Agencies Responsibilities and Obligations, Inspection Form and Guidelines, Interim Management Plans and Exemptions.

VII. Ex-Parte Communication Disclosure [Information]

[Board Members will identify any discussions they may have had requiring disclosure pursuant to Public Resources Code Sections 663.1 and 663.2.]

- Member Lund reported that she has been in contact with the Mayor of the City of Duarte regarding a new mine permit that the City of Asuza was considering. Executive Officer Testa stated that the SMGB received a Designation Appeal for the subject proposed mining operation, which was recently rescinded since the City of Asuza reconsidered and decided to issue a conditional use permit.
- Member Tepel noted that on July 14, 2010, he will be a guest speaker for the Southern California Section of the Association of Engineering and Environmental Geologist (AEG) to discuss the Alquist-Priolo Earthquake Fault Zoning Act and the activities of the SMGB's Geohazards Committee Technical Advisory Committee.

VIII. Good of the Meeting [Information]

[This time is scheduled to provide the public with an opportunity to address non-agenda items. Those wishing to speak should do so at this time. All persons wishing to address the SMGB should fill out a speaker card and present it to the Secretary so that the Chair can determine the number of persons who wish to speak. Speakers are limited to three minutes except by special consent of the Chairman.]

- James and Toni Johnson, citizens, expressed continued issues and concerns regarding the Weber Creek Quarry located in the County of El Dorado.
- Rick Churches expressed 1) his dissatisfaction with the SMGB's determination that no vested rights existed for the Big Cut Mine located in the County of El Dorado, and 2) the need for assessment of the criteria and process associated with removal of a surface mining operation from the AB 3098 list.
- Jay Schneider expressed displeasure with the enforcement actions taken by OMR for a surface mining operation located in the County of Sacramento.
 - ProTem Chairman Baca requested that OMR provide an information update on their efforts as they pertain to this site at the SMGB's next scheduled meeting.



IX. Consent Items [Action]

[All the items appearing under this section will be acted upon by the SMGB by one motion and without discussion; however, any Board member wishing to discuss a particular item may request the Chairman to remove the item from the Consent Calendar and consider it separately under Continued Business or New Business.]

1. Approval of Partial Minutes, May 13, 2010, Regular Business Meeting.

Board Member Lund moved to approve the minutes. Board Member Tepel seconded and the motion carried with a unanimous voice vote.

2. Approval of Minutes, June 10, 2010, Regular Business Meeting.
This matter was deferred.

3. Approval of an Interim Management Plan for the Marysville Facility (CA Mine ID# 91-58-0019), Teichert Aggregates (Operator), Lillie Noble (Agent), County of Yuba.
This matter was deferred.

4. Approval of a Revised Financial Assurance Cost Estimate for the Marysville Facility (CA Mine ID# 91-58-0019), Teichert Aggregates (Operator), Lillie Noble (Agent), County of Yuba.
This matter was deferred.

5. Approval of an Interim Management Plan for Marin Quarry (CA Mine ID# 91-09-0015), Sierra Pacific Industries (Operator), Robert Mertz (Agent), County of El Dorado.

Board Member Lund moved to approve the Interim Management Plan for Marin Quarry. Board Member Tepel seconded and the motion carried with a unanimous voice vote.

X. Continued Business [Action]

[These business items have been continued from a previous meeting/hearing.]

6. Designation of Lead Agency Under the Surface Mining and Reclamation Act (SMARA) Pursuant to Public Resources Code Section 2771 for the McLaughlin Mine (CA Mine ID #91-28-0003), Karl Burke (Agent), Homestake Mining Company (Operator), Counties of Lake, Napa and Yolo.

Executive Officer Testa stated that when an existing surface mining operation is within the jurisdiction of two or more public agencies, is a permitted use within the agencies, and not separated by a natural or manmade barrier coinciding with the boundaries of the agencies, and a question arises regarding which lead agency serves as the SMARA lead agency, the SMGB shall designate which lead agency should serve in such capacity. OMR has raised the question and requested that the SMGB formally designate a lead agency for the McLaughlin Mine, located in Counties of Napa, Lake and Yolo. Pursuant to PRC Section 2771, when designating a lead agency, the SMGB considers 1) the capability of the agency to fulfill adequately the requirements of SMARA, and 2) which agency has principal permit responsibility. The SMGB is considering formally designating a lead agency for the surface mining operation known as the McLaughlin Mine.

- On behalf of OMR, the SMGB heard from James Pompy, Manager of OMR's Reclamation Unit.
- On behalf of the Homestake Mining Company, the SMGB heard from Karl Burke, Manager, Bill Steubing, Vice President, Scott Moore, responsible for compliance monitoring, and Wayne Whitlock, legal counsel for the Homestake Mining Company.



State Mining and Geology Board /DRAFT CONFORMED MINUTES

July 8, 2010

Page 6

- On behalf of the impacted lead agencies, the SMGB heard from Donald Barrella, Planner III with Napa County, and Ronald Yoder, Associate Resource Planner for the County of Lake.
- Dave Brown, consultant for the Homestake Mining Company, made himself available for questions.
- The SMGB heard from interested party, Rick Churches.

Board Member Tepel moved to not recognize a physical barrier between Napa and Yolo. Board Member Lund seconded and the motion carried with a unanimous voice vote.

Board Member Licari moved to recognize a physical barrier between Yolo and Lake Counties. Board Member Lund seconded and the motion carried with a unanimous voice vote.

Board Member Licari moved to recognize a physical barrier between Lake and Napa Counties. Board Member Lund seconded and the motion carried with Member Tepel opposed.

Board Member Licari moved to designate Napa County as the SMARA lead agency for that portion of the McLaughlin Mine that is situated within the jurisdiction of Yolo and Napa Counties. Board Member Tepel seconded and the motion carried with a unanimous voice vote.

Board Member Licari moved to designate Lake County as the SMARA lead agency for that portion of the McLaughlin Mine that is situated within its jurisdiction. Board Member Tepel seconded and the motion carried with a unanimous voice vote.

XI. New Business [Action]

7. Approval of an Interim Financial Assurance Cost Estimate for Santa Paula Rock (CA Mine ID #91-56-XXXX), Al Bitetti (Agent), Santa Paula Rock, Gravel & Sand, LLC. (Operator), City of Santa Paula.

This matter was deferred.

8. Consideration for Issuance of a 45-Day Notice to Correct Deficiencies to the County of Sierra.

This matter was deferred.

XII. Special Reports and Department Presentations [Possible Action]

[Based on these Reports, the Chair may instruct the SMGB staff to initiate administrative actions.

9. Report on the City of Lake Elsinore SMARA Lead Agency Program. **[Information]**
Executive Officer Testa stated that in November 2009, the SMGB received a public complaint pertaining to certain surface mining operations located in the jurisdiction of the City of Lake Elsinore (City). Such complaints were forwarded to the Department of Conservation Office of Mine Reclamation (OMR). OMR performed a site visit in March 2010.

- A synopsis of site conditions for five surface mining operations within the jurisdiction of the City of Lake Elsinore was presented by OMR Assistant Deputy Director Dennis O'Bryant, and OMR staff Bret Koehler and Kevin Doherty. The five surface mining operations discussed by OMR were Pacific Clay Pit (CA Mine ID #91-33-0006), Mountain Avenue Pit #2 (CA Mine ID #91-33-0020), Brighton Alberhill Clay Mine (CA Mine ID #91-33-0022), Murdock



Alberhill Ranch (CA Mine ID #91-33-0073) and Nichols Canyon Mine (CA Mine ID #91-33-0098).

- Ken Seumalo, Director of Public Works for the City of Lake Elsinore, expressed the City's willingness to work with OMR and resolve any outstanding issues. Chairman Pro Tem Baca expressed his appreciation for Mr. Seumalo's presence. Member Licari stated that the cost burden can be shared or provided by the operator. Member Tepel noted that this matter came to the SMGB's attention through a citizen complaint and that their concerns are being addressed, and that some statement in the City's future report demonstrate that such dialogue are being held and their issues addressed.
- Barry Coley, Senior Vice President, and Chad Warren, Mining Manager, for Pacific Aggregates, were available to answer questions, and noted that their financial assurances are in order.

Chairman Pro Tem Baca and Member Lund, expressed concern based on information provided by OMR. Chairman Pro Tem Baca expressed the need for OMR to investigate the situation within the City of Lake Elsinore, and requested that OMR provide more in-depth information including the inspection reports that the City had been filing during the time houses were being built within the boundaries of the mining footprint, and photographs taken during inspections and site visits performed by OMR, and OMR's commentary on such reports.

10. Report on Seismic Hazard Mapping Act: Updating Recommended Procedures for Required Site Investigations. **[Information]**

Executive Officer Testa stated that the Seismic Hazards Mapping Act (SHMA) requires site-specific assessment of seismic hazards for most buildings constructed for human occupancy within designated seismic hazard zones in California. Chuck Real is a Supervising Engineering Geologist, California Registered Geophysicist, and Manager of the Seismic Hazards Zonation Program, and prepared a presentation outlining the need to update the procedures required for site investigations under the SHMA.

- Chuck Real summarized information presented in the Executive Officer's report and stated that as part of implementing the SHMA, the burden of proof is on the developer to demonstrate that the site can be developed safely. Special Publication 117, "*Guidelines for Evaluating and Mitigating Seismic Hazards in California*", was prepared to help establish standards for site investigations within Official Seismic Hazard Zones, and has proven instrumental in raising the standards of geotechnical practice for evaluating seismic hazards since its first publication in 1997. Post-earthquake investigations worldwide and attendant advancements in earthquake science and engineering resulted in the 2008 revision of the Guidelines.

While the Guidelines represent a target for the scope and content of geotechnical site investigations, the need for more specific advice on "how to" was requested by the City and County of Los Angeles, which resulted in publication of two important supplementary documents that addresses procedures for field and laboratory analyses: "*Recommended Procedures for Implementation of DMG Special Publication 117 Guidelines for Analyzing and Mitigating Liquefaction in California*", and a second report of similar title addressing landslide hazards. These documents, published in 1999 and 2000⁰², respectively, were the result of two ad hoc working groups organized through the southern California Chapter of the American Society of



Civil Engineers, and published through the Southern California Earthquake Center. While adopted in southern California practice, they have also been used by a few communities in northern California. No equivalent document has been prepared and vetted by the geotechnical profession in northern California, where practice differs somewhat.

These two documents are now out-of-date and need to be brought into sync with the updated SP 117A guidelines, which provides an important opportunity to solicit input from northern California practice and publish under State seal a single set of documents having statewide applicability. Such efforts are being implemented.

The report presented by the California Geological Survey was for the SMGB's general information, and no action was taken.

XIII. SMGB Committee Reports [Information and Possible Action]

- Geohazards Committee
 - Alquist-Priolo Technical Advisory Committee (Chairperson Tepel)
- Surface Mining and Standards Committee (Chairperson Lund)
- Minerals and Geologic Resources Committee (Chairperson Tepel)
- Policy and Legislation Committee (Chairperson Baca)

No Committee reports were provided.

XIV. Continuing Business [Information]

[This item is provided as an opportunity for any SMGB member to receive information on or any items of continuing interest to the SMGB.]

No continuing business information was discussed.

XV. New Business [Information]

[This item is provided as an opportunity for any SMGB member to bring any item of new business to the SMGB's attention for further discussion and further action.] Items to be discussed:

- Chairman Pro Tem Baca reminded OMR Assistant Director Dennis O'Bryant that SMGB requested draft regulatory language pertaining to a due process for re-instatement and removal of operators from the AB 3098 list, and directed the EO to work with OMR and DOC to develop some language. O'Bryant stated that for some time the Department has been considering this matter, and whether the DOC should have some due process in place. OMR currently has ongoing litigation on this very issue, and thus, the DOC can not say too much or participate in any SMGB action. Chairman Pro Tem Baca thus directed the EO to schedule this matter for the Policy and Legislation Committee, unless advised by the Attorney General's office that this matter needs to wait until any and all litigation between an operator and the DOC and OMR is resolved. Rick Churches criticized the current process and commented that OMR removes operators from the list with no due process, and in his case, is considering pursuing litigation to protect his civil rights.
- Member Tepel requested that the EO be re-directed to review the SMGB's procedure and protocol when considering issuance of administrative penalties, a matter that was initiated by former Member Hoose.



XVI. Executive Session (Closed to the Public) [Possible Action]

[The SMGB will discuss information from its legal counsel on pending litigation and may take appropriate actions based on this information. This session is being held under Government Code, Section 11126.] Items to be discussed:

- a). Brunius vs. SMGB, Case # PC 20010449, El Dorado County Superior Court.
- b). Kibbe Area Planning and Protection Association; Forest Tull vs. SMGB; A. Teichert & Sons, Inc.; and DOES 1010, Case No. 34-2007-00882657-CU-WM-GOS, Sacramento County Superior Court.
- c). An un-named case where there is potentially significant exposure to litigation against the Board.
- d). An un-named case where there is potentially significant exposure to litigation against the Board.

Re-open Regular Business Session, Announce Results of Executive Session

SMGB's Legal Counsel, Deputy Attorney General William Jenkins, announced that the SMGB met in Executive Session and no action was taken.

XVII. Announcements of Future Meetings

September 9, 2010, was announced as the next meeting, and the City of Sacramento as the location.

XVIII. Adjournment

The meeting was adjourned at 3:30 P.M.

APPROVED

Erin Garner, Chairman

Stephen M. Testa, Executive Officer

